

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
K. Roger Aoki

Examiner:
Anish Gupta

Serial No.: 10/726,904

Group Art Unit: 1654

Filed: December 2, 2003

Confirmation No. 4172

For: **USE OF THE NEUROTOXIC COMPONENT OF A BOTULINUM TOXIN
FOR TREATING A SPASTIC MUSCLE**

MAIL STOP RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO OFFICE ACTION

This response to the December 15, 2006 final office action amends page 1 of the specification, amends claims 1 and 3, cancels claim 3, and adds new claims 29-77. The pending claims 1-2, 4-5 and 29-77 are shown at pages 38-43 of this response.

A Request for Continued Examination (RCE) is filed with this response. Applicants request a one month extension of time for responding to the office action. The RCE fee, the extension of time fee and any other required fee can be charged to deposit account number 01-0885.

I. The Office Action

The December 15, 2006 final office Action (the "Office Action") in this application:

1. denied domestic priority of claims 1-5 under 35 U.S.C. section 120 to parent application 08/173,996.

2. rejected claims 1-5 under 35 U.S.C. section 103(a) as being unpatentable over Balkan (1991)) or Han (2001) in view of Tse (1982) and Aoki (U.S. patent 6,113,915 filed in 1999).

3. rejected claims 1-5 under 35 U.S.C. section 103(a) as being unpatentable over Balkan (1991)) or Han (2001) in view of Aoki (U.S. patent 6,113,915 filed in 1999) and Aoki (patent publication 2001 018415).

Applicants respond to the Office Action as follows.

II. Request for Continued Examination and for a One Month Extension of Time

This response to the Office Action is filed with a Request for Continued Examination ("RCE"). The RCE fee and any other required fee (such as the requested one month extension of time for responding to the Office Action) can be charged to deposit account number 01-0885. Thus, the RCE and this response (including the attached Brin declaration) should be entered and considered.